

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

PROFESSIONAL JANITORIAL)	
SERVICE OF HOUSTON, INC.,)	
)	
<i>Petitioner/Cross-Respondent,</i>)	
)	
v.)	No. 15–60858
)	
NATIONAL LABOR RELATIONS)	
BOARD,)	
)	
<i>Respondent/Cross-Petitioner.</i>)	

**PETITIONER/CROSS-RESPONDENT PROFESSIONAL JANITORIAL
SERVICE OF HOUSTON, INC.'S UNOPPOSED MOTION FOR 30-DAY
EXTENSION OF DEADLINE TO FILE PETITIONER’S BRIEF**

Petitioner Professional Janitorial Service of Houston (“PJS”) respectfully requests that the Court extend the deadline for PJS to file its petitioner’s brief and record excerpts by 30 days. Respondent/Cross-Petitioner National Labor Relations Board (“NLRB”) is unopposed to this extension.

PJS and the NLRB are working to finally resolve the remaining issues in this appeal without the need for the Court to rule on those issues. It is anticipated that the additional time requested will enable the parties to achieve that resolution and avoid further taxing the Court’s resources.

**I.
RELEVANT BACKGROUND**

This case involves the review of a Decision and Order of the NLRB, which

found that PJS's Dispute Resolution and Arbitration Policy violated the National Labor Relations Act in three ways:

- (1) by requiring employees to waive their rights to pursue class or collective actions;
- (2) by having language in its policy that employees [allegedly] would read as barring or restricting their ability to file charges with the NLRB; and
- (3) by maintaining a confidentiality rule in its arbitration policy that would [allegedly] prohibit discussion of terms and conditions of employment.

(See NLRB Decision & Order, attached as Exhibit A to Petition for Review).

On July 26, 2016, PJS moved for summary disposition in its favor on the first issue only. The Court canceled the briefing schedule three days later, at PJS's unopposed request, to allow the parties to first obtain a ruling on PJS's request for partial summary disposition.

On September 14, 2016, the Court granted PJS's partial summary disposition motion, refusing enforcement of the NLRB's order regarding PJS's "maintenance of class/collective action waivers in its arbitration policy." (Per Curiam Order dated 9-14-16). The Court additionally issued a briefing notice that set October 24, 2016, as the date for PJS's brief on the two remaining issues.

II.

GROUND FOR 30-DAY EXTENSION

Subsequent to the Court's September 14 orders, PJS has decided to comply

with the Board's order on the two points that remain pending in this case (points 2 and 3 listed above) to avoid the further litigation expense that would be required in continuing to challenge them. While PJS respectfully disagrees with the NLRB's rulings, PJS has no objection to taking the steps necessary to revise its arbitration policy consistent with the Board's orders on the remaining points on appeal.

PJS has communicated these positions to the NLRB and is working with the agency to achieve compliance with the Board's order, except for the portion of that order that this Court has already summarily refused to enforce. The additional 30 days that PJS seeks through this motion is needed to allow further time for PJS to comply on those outstanding issues and for the NLRB to verify PJS's compliance. Accordingly, this motion for extension of time is not for delay, but so that justice may be done and a final resolution achieved without further burdening the Court's and the parties' resources.

III. **PRAYER FOR RELIEF**

For the foregoing reasons, PJS respectfully asks that the deadline for PJS to file its petitioner's brief and record excerpts be extended by 30 days.

Respectfully submitted,

/s/ G. Mark Jodon

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CERTIFICATE OF SERVICE

I hereby certify that, on October 20, 2016, I electronically filed the foregoing document with the Clerk of the Court for the Fifth Circuit Court of Appeals by using the CM/ECF filing system, which will automatically send proper electronic notification and a copy of the filing to the following persons:

Ms. Linda J. Dreeben, *Deputy Associate General Counsel for NLRB*
Ms. Kira Dellinger Vol, *Counsel for NLRB*
Ms. Martha Kinard, *Director of NLRB Region 16*
Mr. Jared David Cantor, *Counsel for Intervenor SEIU*
Mr. Michael Rubin, *Counsel for Intervenor SEIU*
Mr. Eric Brown, *Counsel for Intervenor SEIU*

/s/ Tim Rybacki
Timothy A. Rybacki

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CERTIFICATE OF CONFERENCE

I hereby certify that I conferred with counsel for the NLRB on October 19, 2016, regarding its position on the foregoing motion. The NLRB is unopposed to the relief requested.

/s/ Tim Rybacki
Timothy A. Rybacki

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